



PLANNING COMMISSION AGENDA REPORT

VI. 3

MEETING DATE: AUGUST 25, 2008

ITEM NUMBER:

SUBJECT: REVIEW OF MINOR CONDITIONAL USE PERMIT ZA-07-36
2991 RANDOLPH AVENUE (GODS AND HEROS)

DATE: AUGUST 14, 2008

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

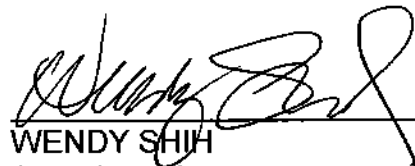
PROJECT DESCRIPTION

The Planning Division is initiating review and modification of the minor conditional use permit for a commercial photography/fashion studio with outdoor events.


Michael Alec Tenace is the business owner; Sobeca Partners LLC is the property owner.

RECOMMENDATION

Modify the conditions of approval of Minor Conditional Use Permit ZA-07-36 by adoption of Planning Commission resolution.



WENDY SHIH
Associate Planner



KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND

The property is located near the southwest corner of Baker Street and Randolph Avenue, within the SoBECA Urban Plan area. The property is zoned General Industrial (MG) and is surrounded by commercially zoned and developed properties to the north and industrially zoned and developed properties to the west, east, and south. Residential properties exist on the north side of Baker Street. This property is also located in proximity to the Shark Club at 841 Baker Street and the Huddle at 741 Baker Street.

On August 23, 2007, the Zoning Administrator approved Minor Conditional Use Permit ZA-07-36 to legalize a commercial photography/fashion studio (Gods and Heros) with limited outdoor events. On June 2, 2008, the Pentridge Cove Homeowner's Association, located across Baker Street to the north, submitted a letter to the Zoning Administrator expressing concerns with the business operations and protesting any extension of the permit. Staff notes that a minor conditional use permit is valid until such time it is revoked by the Planning Commission. The letter is attached to this report (Attachment 3).

The major dates related to the operation of Gods and Heros are summarized in the table below:

GODS AND HEROS TIMELINE	
March 2005	Gods and Heros obtained business license to operate as a jewelry manufacturer/wholesaler with graphic design work.
March 2007	Code Enforcement and Police Department received noise complaints and complaints of the business being run as a hair salon.
August 2007	The Zoning Administrator approved Minor Conditional Use Permit ZA-07-36 to legalize the commercial photography/fashion studio with limited outdoor events.
April 2007 to April 2008	Numerous Code Enforcement complaints and Police calls for service were received regarding noise and parking impacts.
April 2008	Last outdoor event for Gods and Heros occurred on April 5, 2008.
June 2008	Pentridge Cove Homeowner's Association sent a letter to the Zoning Administrator stating the following concerns with the business: <ul style="list-style-type: none"> ▪ More than two outdoor events per month had occurred. ▪ Events were open to the public. ▪ Noise and parking impacts.
June 2008	Planning staff met with the business owner, who confirmed that there have been outdoor events which were larger than that approved under the minor conditional use permit. He states that the last event occurred in April 2008 and no further outdoor events have occurred since or are currently planned.
August 2008	The Police Department confirmed that there have not been any recent complaints of the business. There have also been no recent Code Enforcement complaints of the use.

The Zoning Code allows the Planning Commission to modify any planning application if it creates a public nuisance or the conditions are not complied with. Staff has initiated review and modification of the minor conditional use permit in response to the concerns expressed by area residents.

REVIEW ANALYSIS

Gods and Heros is a commercial photography/fashion studio that provides hair and make-up services to other businesses and the fashion industry in conjunction with commercial photography. Approval of the minor conditional use permit for the studio limited services to industry professionals only and outdoor activities to twice a month. The Zoning Administrator determined that the commercial photography studio, as conditioned, was compatible with surrounding properties and was consistent with the SoBECA Urban Plan by providing and attracting artist-type businesses and activities. However, subsequent to the approval the business owner conducted several indoor and outdoor events such as fashion shows, art exhibitions, and other fashion-related activities which violated the minor conditional use permit and created noise and parking impacts.

The 0.4-acre property contains a 5,222 square-foot building and 22 parking spaces. Approval of a commercial photography/fashion studio on this property was based on it being a business that does not provide services to the general public and that adequate parking is provided to accommodate the use (21 spaces required; 22 spaces provided). However, upon further review of the use and based on past complaints, staff believes outdoor activities are not appropriate for this site due to the lack of open area and should no longer be allowed. The outdoor activities occurred in the parking area, resulting in patrons parking on the surrounding streets and properties. If the applicant wants to have occasional outdoor or indoor events, he could apply for a "special event permit" provided that adequate parking can be secured off-site to support the event.

In order to ensure that the business operation is consistent with the minor conditional use permit for a commercial photography/fashion studio with limited customer traffic to the site, and to prevent future potential impacts on surrounding properties, staff recommends the following modifications/additions to the conditions of approval (see Attachment 1 for complete list of conditions):

1. The business shall not provide services to the general public. The use shall be limited to a commercial photography/fashion studio only, where photo shoots and incidental support functions are allowed. No fashion shows or art exhibitions shall be permitted.
2. Hair and make-up services shall be incidental to the commercial photography use. All services shall be provided to other businesses and the fashion industry only. No walk-in customer service shall be allowed. No advertisement of hair and make-up services to the general public shall be permitted.
3. No outdoor business activities shall be permitted.
4. No live entertainment or amplified music shall be permitted indoors.
5. No food or alcoholic beverages shall be sold on the premises.

6. No indoor or outdoor events shall be allowed unless a "special event permit" is obtained, subject to Title 9, Chapter II, Article 11 ½ of the Costa Mesa Municipal Code. Application for a special event shall be submitted at least 30 days prior to the event and shall provide a plan for parking, including off-site locations, if necessary.
7. If parking shortages or other parking-related problems arise, the applicant shall institute whatever operational measures are necessary to minimize or eliminate the problem.

GENERAL PLAN CONSISTENCY

Because the recommendation is for modification of a zoning application so that the use is compatible with surrounding properties, the modification is consistent with the General Plan.

ALTERNATIVES

The Planning Commission may consider the following alternatives:

1. Modify Minor Conditional Use Permit ZA-07-36 as recommended by staff. This would allow the business to continue to operate under modified conditions of approval.
2. No change to Minor Conditional Use Permit ZA-07-36. No action is necessary if no changes are required. The existing minor conditional use permit would still be valid.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

CONCLUSION

The Zoning Administrator approved a minor conditional use permit for a commercial photography/fashion studio and for limited outdoor events. Staff recommends modifications and additions to the existing conditions of approval to ensure that the business operation is consistent with the minor conditional use permit and to prevent potential impacts on surrounding properties.

- Attachments:
1. Draft Planning Commission Resolution
 2. Location Map
 3. Pentridge Cove Homeowner's Association Letter dated June 2, 2008
 4. Zoning Administrator Approval Letter dated August 23, 2007

cc: Deputy City Manager - Dev. Svcs.
Deputy City Attorney
City Engineer
Fire Protection Analyst

Staff (4)
File (2)

Alec Tenace
2991 Randolph Avenue
Costa Mesa, CA 92626

SoBECA Partners LLC
709 Randolph Avenue
Costa Mesa, CA 92626

David Jordan Smith
Pentridge Cove Homeowners Association
17731 Irvine Boulevard, Suite 212
Tustin, CA 92780

RESOLUTION NO. PC-08-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING MODIFICATION OF ZONING APPLICATION ZA-07-36

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Alec Tenace, authorized agent for property owner SoBECA Partners LLC, requesting approval of a minor conditional use permit to legalize a commercial photography/fashion studio and outdoor events, located at 2991 Randolph Avenue, in an MG zone; and

WHEREAS, on August 23, 2007, the Zoning Administrator approved Zoning Application ZA-07-36; and

WHEREAS, a duly noticed public hearing for the review and modification of Zoning Application ZA-07-36 was held by the Planning Commission on August 25, 2008.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** modification of Zoning Application ZA-07-36 to eliminate outdoor events and include additional conditions of approval regarding the business operations, with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Zoning Application ZA-07-36 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B", as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 25th day of August 2008.

Donn Hall, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Kimberly Brandt, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on August 25, 2008, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29 (g)(2) in that allowing the commercial photography/fashion studio is compatible with developments and uses in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety, and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, negative parking impacts are not anticipated because the use provides services to other businesses and the fashion industry only; services to the general public are not allowed. Granting the minor conditional use permit will not allow a use, density, or intensity that is not in accordance with the general plan designation for the property.
- B. The proposed use complies with Costa Mesa Municipal Code Section 13-29(e) because:
 - 1. As conditioned, the use is compatible and harmonious with uses on surrounding properties.
 - 2. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - 3. As conditioned, the use is consistent with the General Plan with the minor conditional use permit and with the SoBECA Urban Plan in that the use provides and attracts artist-type businesses and activities.
 - 4. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

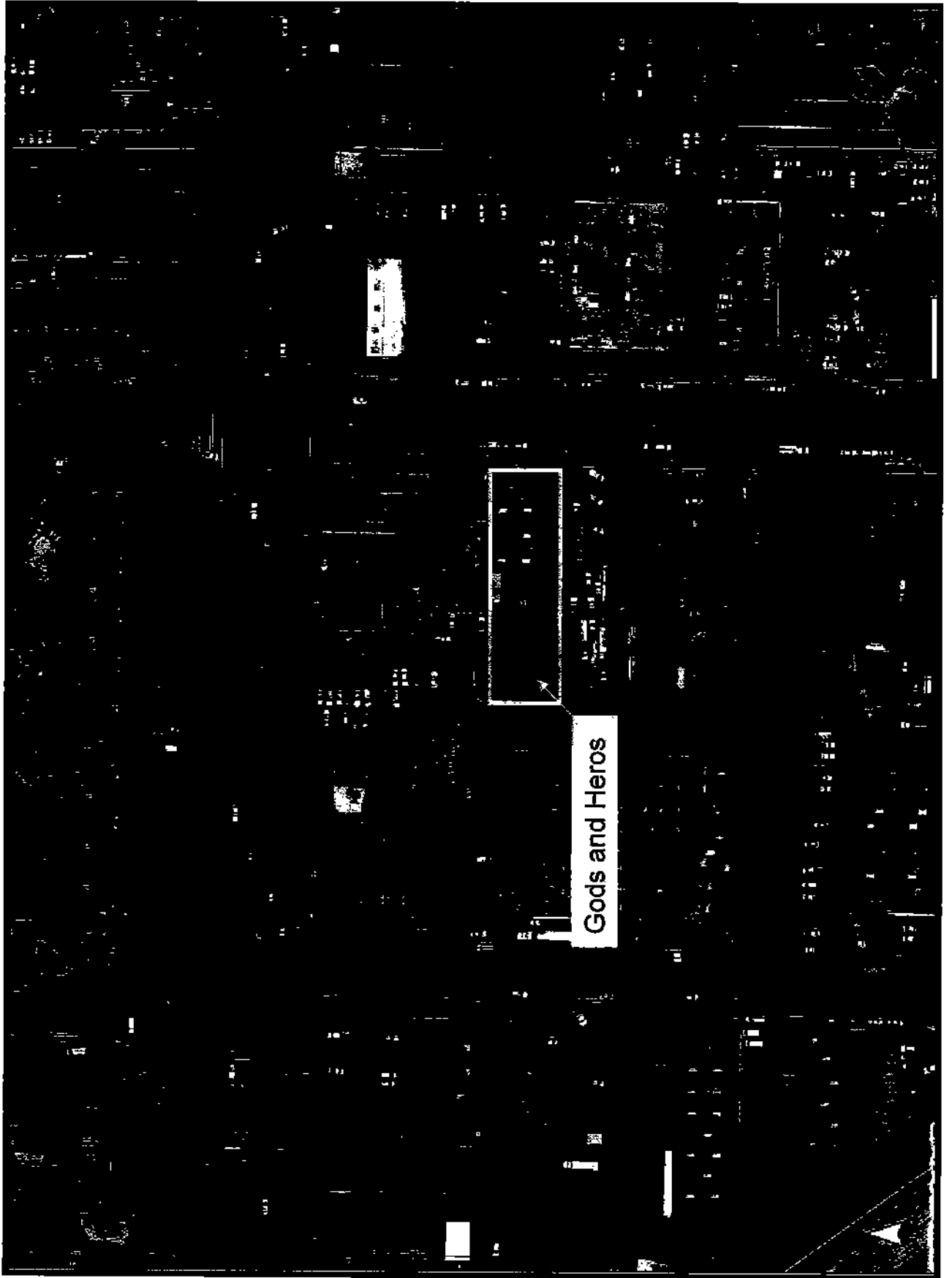
EXHIBIT "B"

CONDITIONS OF APPROVAL (REVISED)

- Plng.
1. The business shall not provide services to the general public. The use shall be limited to a commercial photography/fashion studio only, where photo shoots and incidental support functions are allowed. No fashion shows or art exhibitions shall be permitted.
 2. Hair and make-up services shall be incidental to the commercial photography use. All services shall be provided to other businesses and the fashion industry only. No walk-in customer service shall be allowed. No advertisement of hair and make-up services to the general public shall be permitted.
 3. No outdoor business activities shall be permitted.
 4. No live entertainment or amplified music shall be permitted indoors.
 5. No food or alcoholic beverages shall be sold on the premises.
 6. No indoor or outdoor events shall be allowed unless a "special event permit" is obtained, subject to Title 9, Chapter II, Article 11 ½ of the Costa Mesa Municipal Code. Application for a special event shall be submitted at least 30 days prior to the event and shall provide a plan for parking, including off-site locations, if necessary.
 7. If parking shortages or other parking-related problems arise, the applicant shall institute whatever operational measures are necessary to minimize or eliminate the problem.
 8. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
 9. The business shall be conducted at all times in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 10. The minor conditional use permit herein approved shall be valid until revoked. The minor conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.

ATTACHMENT 2

LOCATION MAP



PENTRIDGE COVE HOMEOWNER'S ASSOCIATION

Professionally Managed by Optimum Property Management, Inc. (CMF)

A CERTIFIED MANAGEMENT FIRM

www.optimumpm.com

ATTACHMENT 3

June 2, 2008

RECEIVED
CITY OF COSTA MESA
PLANNING DEPARTMENT

JUN - 3 2008

Mr. R. Michael Robinson, AICP
Zoning Administrator
City of Costa Mesa
P.O. Box 1200
77 Fair Drive
Costa Mesa, CA 92626-1200

RE: Zoning Application ZA-07-36 Minor Conditional Use permit to Legalize a Commercial Photography/Fashion Studio with Outdoor Events 2991 Randolph Avenue, Costa Mesa

Dear Mr. Robinson,

The Pentridge Cove Homeowner's Association 1, located across Baker Street and on both side of Randolph Avenue from this Conditional Use permit would like to file a protest to this permit as it has not been carried out in the manner described in the permit.

Further, we also would want to express that we will protest any extension of the permit (due for extension in August 2008, one year from issuance).

The permit was issued on 6 Conditions of Approval from the Planning Department and we protest based on the following of these Conditions (1,2,4 & 5):

1. "The outdoor events/activities shall be limited to twice per month." There have been months since approval where there has been more than two events.
2. "Service shall not be provided to the general public." General public is welcome to these events, and the events have been advertised to the general public. In fact several of our residents have walked across to check out what these events are about and have been admitted without question.
4. "The Business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood." These outdoor events are based on loud dance music and also continue past bar hours. This music contains bass beats that are especially harassing to the neighborhood, creating vibrations across the streets and causing noise and vibrations in our condominium units.

"The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with the requirement." Roving patrons of these events are parking and roaming in our neighborhood and there is no security whatsoever is provided on the exterior past a valet parking attendant. Further, in the "Findings" section of the Approval letter, it is stated that "...negative parking impacts are not anticipated because the use provides services and events for

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other businesses and the the fashion industry....." We fail to see how people and their cars, whether general public or business-related would not cause parking problems when the business is using their entire parking lot for these events. People and their cars must be accommodated somewhere and these events are well attended regardless of who is attending. In fact, the cars, combined with parking problems of the other businesses on Baker and Randolph Street impact all of the existing lots, existing street spaces on Randolph Street (on both sides of Baker) and our neighborhood private parking.

5. "The minor conditional us permit herein approved shall be valid until revoked. The minor conditional use permit may be referred to the Zoning Administrator for modification or revocation at any time if the conditions of approval have not been complied with....." With this letter, we request that you investigate and refer this permit to the Zoning Administrator to begin the process of revoking the permit.

Please evoke the provision to investigate this permit for revocation. Also these same noise complaints have been filed with the Costa Mesa Police Department. Please solicit their opinion and records in your investigation. There have been increased criminal and misdemeanor driving related occurrences during these events.

We look forward to you investigation and revocation of this permit. Let us know how we can contribute to any investigation and/or if there is any other procedure that we need to invoke to achieve this revocation.

At the direction of the Board of Directors
PENTRIDGE COVE HOMEOWNER'S ASSOCIATION

By: David Jordan Smith, AIA, CSI


JP

cc: Board of Directors



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

ATTACHMENT 4

August 23, 2007

Alec Tenace
2991 Randolph Avenue
Costa Mesa, CA 92626

**RE: ZONING APPLICATION ZA-07-36
MINOR CONDITIONAL USE PERMIT TO LEGALIZE A COMMERCIAL
PHOTOGRAPHY/ FASHION STUDIO WITH OUTDOOR EVENTS
2991 RANDOLPH AVENUE, COSTA MESA**

Dear Mr. Tenace:

The review of the minor conditional use permit for the above-referenced project has been completed. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval (attached). The decision will become final at 5:00 p.m. on August 30, 2007 (seven days), unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Hanh Nguyen, at (714) 754-5640.

Sincerely,

R. MICHAEL ROBINSON, AICP
Zoning Administrator

Attachments: Project Description
 Findings
 Conditions of Approval & Code Requirements
 Conceptually Approved Plans

cc: Gary Wong, Engineering
Fire Protection Analyst
Building Division

SOBECCA Partners LLC
709 Randolph Avenue
Costa Mesa, CA 92626

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DESCRIPTION

- The subject property contains a 3,700 square-foot, industrial building. The site is zoned General Industrial (MG) and is surrounded by commercially zoned and developed properties to the north and industrially zoned and developed properties to the west, east, and south. The property is also located within the SoBECA Urban Plan overlay zone.
- The applicant proposes to legalize a commercial photography/fashion studio with outdoor events. The studio provides services for hair and make-up and conducts special events such as fashion shows, art exhibitions, and other fashion-related activities. These events occasionally occur after business hours, in the rear parking lot behind the building. A condition has been included limiting the outdoor events to two times per month. The use provides services and events for other businesses and the fashion industry. Staff supports the proposed use because it is not open to the general public; therefore, parking problems are not anticipated.
- The proposed use is consistent with General Plan Land Use Objective LU-1B in that the proposed use would contribute to the viability of the subject business as well as to the community's economic base. The commercial photography/fashion studio is also consistent with the SoBECA Urban Plan by providing and attracting artist-type businesses and activities.

FINDINGS

1. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that allowing the commercial photography/fashion studio with limited outdoor events are compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety, and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, negative parking impacts are not anticipated because the use provides services and events for other businesses and the fashion industry, services to the general public is not allowed. The outdoor events will be limited to twice a month. Granting the minor conditional use permit will not allow a use, density, or intensity that is not in accordance with the general plan designation for the property.
2. The proposed use complies with Costa Mesa Municipal Code Section 13-29(e) because:
 1. As conditioned, the proposed use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
 2. As conditioned, the proposed use complies with applicable development standards for the zoning district.
 3. As conditioned, the use is consistent with General Plan Land Use Objective LU-1B and the SoBECA Urban Plan in that use would provide and attract artist-type businesses and activities, contributing to the viability of the community's economic.
 4. The zoning application is for a project-specific case and does not establish a precedent for future development.

3. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from Section 15301, Existing Facilities, of CEQA.
4. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

- Plng.
1. The outdoor events/activities shall be limited to twice per month.
 2. Services shall not be provided to the general public.
 3. A copy of the conditions of approval for the minor conditional use permit must be kept on the premises and presented to any authorized City official upon request. New business/property owners shall be notified of the conditions of approval upon transfer of business or ownership of land.
 4. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 5. The minor conditional use permit herein approved shall be valid until revoked. The minor conditional use permit may be referred to the Zoning Administrator/Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is operated in violation of applicable laws or ordinances or, if in the opinion of the Development Services Director or his designee, any of the findings upon which the approval was based are no longer applicable. Nothing in this condition shall exempt the applicant from complying with any time limits applied to any construction authorized by this application.
 6. The project is subject to compliance with all applicable federal, state, and local laws. A copy of the applicable Costa Mesa Municipal Code requirements has been forwarded to the Applicant and, where applicable, the Authorized Agent, for reference.

CODE REQUIREMENTS

The following list of federal, state, and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng.
1. Approval of the zoning action is valid for one (1) year and will expire at the end of that period (August 30, 2008) unless building permits for the construction authorized by the zoning action are obtained and construction commences, or the applicant applies for and is granted an extension of time. A written request for an extension of time must be received by Planning staff prior to the expiration of the zoning action.
 2. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
 3. Street addresses shall be displayed on the freestanding sign or, if there is no freestanding sign, on the fascia or store front adjacent to the main entrance of

the building, in a manner visible to the public street. Numerals shall be a minimum 12" in height with not less than 3/4" stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be 4" in height with not less than 1/4" stroke and shall contrast sharply with the background.

4. Development shall comply with all requirements of Articles 5 and 9, Chapter V, Title 13 of the Costa Mesa Municipal Code relating to industrial development standards.
- Bus. 5. All contractors and subcontractors must have valid business licenses to do
Lic. business in the City of Costa Mesa.
- Bldg. 6. Comply with the requirements of the California Code of Regulations, Title 24,
also known as the California Building Standards Code, as amended by the City
of Costa Mesa.